UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,310	06/04/2007	Carlo Andretta	4066-29PUS	6949

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EXAMINER
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ART UNIT	PAPER NUMBER
2129	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/589,310	ANDRETTA ET AL.
	Examiner	Art Unit	
	DAVID R. VINCENT	2129	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _04 June 2007_.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-20_ is/are pending in the application.
   4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) _1-20_ is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on _10 August 1960_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☒ All   b) ☐ Some * c) ☐ None of:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. _____.
    3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)
1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _8/10/06_.
4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35

U.S.C. 112:

> The specification shall conclude with one or more claims particularly
> pointing out and distinctly claiming the subject matter which the applicant
> regards as his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, second

paragraph, as being indefinite for failing to particularly point

out and distinctly claim the subject matter which applicant

regards as the invention.

Claim 1 recites the limitation "the evaluation results" in

line 6. There is insufficient antecedent basis for this

limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which

forms the basis for all obviousness rejections set forth in this

Office action:

> (a) A patent may not be obtained though the invention is not identically
> disclosed or described as set forth in section 102 of this title, if the
> differences between the subject matter sought to be patented and the prior
> art are such that the subject matter as a whole would have been obvious at
> the time the invention was made to a person having ordinary skill in the
> art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

Claims 1-7, 9-16 are rejected under 35 U.S.C. 103(a) as

being unpatentable over **Winkler** (US 7,288,515) in view of

Koeferli (Application of Classical and Novel Sensory Techniques

in Product Optimization, 1998) and further in view of **Kita** et

al. (6,834,530).

Winkler discloses:

1. Method for producing a fragrance and/or aroma composition,

characterized by using a composition database that is comprised

of recipe vectors and attribute vectors associated with a group

of base compositions that can be manufactured by mixing

predetermined substance components (Fig. 1 or abstract or

summary), **whereby each recipe vector specifies the proportions**

of the substance components that are required for the creation

of the associated base composition (102, Fig. 1) **and whereby**

each attribute vector specifies the evaluation results with

regard to selected sensory attributes of the associated base

composition (amount of change being removed or added, Fig. 1 and

respective disclosure), **and whereby the method consists of the**

following steps:

a) **specifying a target attribute vector** (110, Fig. 1);

b) **determining an operator which effects a transformation**

from recipe vectors to attribute vectors at least in a

surrounding of the target attribute vector (inherent math

operators used in adding or subtracting, 106, 108);

c) **establishing a target recipe vector with the proviso**

that it is transformed to the target attribute vector by using

said operator (base formula is converted to target formula, Fig.

1); **and**

d) **mixing the predetermined substance components with**

proportions according to the target recipe vector (completing

process, e.g., 114, Fig. 1 and respective disclosure).

However, Winkler fails to particularly call for the math

which would/could include the details of vectors, and using

sensory attributes (title, Fig. 5, abstract, and section titled

The Beginning), as specified in Fig. 1.

Koeferli teaches using vectors (inherent vectors using in

PCA, Fig. 1, pg. 410) in a production process (optimization

process), as specified in claim 1;

specifying a target attribute vector (vectors used in

redesigning a product using PCA, pg. 412, right column);

determining an operator (inherent math operators used in

transforming vectors to new redesigned product).

Kita is used to make it more clear that vectors are or can

be used in the production process (Figs. 2, 4, 5, 8, and

respective disclosure), and that the vectors are or can be

calculated using operators (51, Fig. 1; 84, Fig. 11) and stored

in a database (e.g., memory used by processor).

It would have been obvious to combine the three references

because the base reference Winkler discloses producing a

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fragrance/aroma by starting with a base product, Koeferli

teaches that it is well known to use various math processes to

accomplish the process of Winkler, and Kita discloses in

pictures how vectors can be used for the purpose of representing

the ingredients in the fragrances. Adding math such as PCA

would make the process work faster and have more capabilities.

PCA and the other techniques taught by Koeferli inherently use

vectors but adding Kita makes it more clear how the vectors can

be used to represent ingredients and how the vectors would be

stored in memory. Referring to the memory of Kita as a database

is obvious because a database comprises of an organized

collection of data for one or more uses, typically in digital

form. Furthermore, it is obvious if not inherent that the

sophisticated processing being done in Koeferli would include a

database.

2. Method according to claim 1, wherein the composition database

is produced by the following steps:

a) preparing the group of base compositions by mixing the

substance components in proportions according to a recipe vector

that is associated to each base composition (Winkler: e.g., 102,

Fig. 1);

b) **quantitatively evaluating each one of the base compositions with regard to the selected sensory attributes and creation of the associated attribute vector** (Winkler: e.g., 104, Fig. 1); **and**

c) **creating the composition database by storing the recipe vectors and attribute vectors in such a way that the vectors that are associated to each base composition can be retrieved in relation to one another and to the base composition** (Winkler: abstract, or executing computer program in Fig. 1).

3, 10. **Method according to claim 1, wherein the evaluation of the sensory attributes is based on quantitative descriptive analysis** (Koeferli: title, The Beginning section, sensory analysis, pg. 412; Fig. 5) .

4, 11. **Method according to claim 1, wherein the attributes used to create the attribute vectors are selected by means of a factor analysis** (not further defined, reads on inherent math operations performed by Koeferli, e.g., pg. 413).

5, 12. **Method according to claim 1, wherein the operator is established by means of one of multiple regression, neuronal**

networks, and an expert system (Koeferli: neural network,

regression analysis, pg. 413).

6, 13. Method according to claim 1, wherein the target recipe

vector is determined by means of statistical test planning

(Koeferli: e.g., statistical methods, pg. 413).

7, 14-16. Method according to claim 1, wherein the target

attribute vector is determined through the attribute evaluation

of a predetermined composition (not further defined, reads on

Koeferli: using sensory analysis, and obtaining a new product

using PCA and/or regression, pgs. 412-413).

9. Device for carrying out the method according to claim 1, with

a data processing unit, as well as with a mixing device that is

controlled by it, whereby the data processing unit comprises

means for the entry, storage and retrieval of at least one

composition database, as well as means for the entry of

attribute vectors, means for the calculation of target recipe

vectors and means for the transfer of control signals that are

shaped according to the recipe vectors to the mixing device, and

whereby mixing the device features the following components: a)

a plurality of storage containers that can be filled with

individual substance components; b) a plurality of receptacles;

c) a controllable feeding device to bring predetermined

quantities of individual substance components from the

corresponding storage containers to the receptacles for the

creation of one of a fragrance and aroma composition.

Claim Rejections - 35 USC § 103

Claims 1-7, 9-16 are rejected under 35 U.S.C. 103(a) as

being unpatentable over the combination of **Winkler, Koeferli,**

and Kita in view of Staples (US 6,212,938).

Although the combination discloses using vectors, PCA, and

regression (Koeferli: e.g., Figs. 1-2, 4; Kita: Fig. 4), the

combination fails to particularly call for **the Method according**

to claim 1, wherein attribute vectors are represented in the

form of polar diagrams, as specified in claim 8, and 17-20.

Staples teaches **wherein attribute vectors are represented**

in the form of polar diagrams, as specified in claim 8, and 17-

20 (Staples: Figs. 7-8, and 10 and respective disclosure).

It would have been obvious to combine Staples with the

combination of Winkler, Koeferli, and Kita because putting the

data in a polar/radar form makes it easier for humans to

visualize, whereas vectors are basically a math process that are

generally not displayed.

Examiner Notes

The examiner has considered the applicant's claims in light
of the disclosure. However, the examiner respectfully reminds
the applicant that during prosecution before the USPTO, **claims
are to be given their broadest reasonable interpretation**, and
the scope of a claim cannot be narrowed by reading disclosed
limitations into the claim. See In re Morris, 127 F.3d 1048,
1054 (Fed. Cir. 1997). The Office must apply the broadest
reasonable meaning to the claim language, taking into account
any definitions presented in the specification. In re Am. Acad.
of Sci. Tech Ctr., 367 F.3d 1359, 1364 (Fed. Cir. 2004) (citing
In re Bass, 314 F.3d 575,577(Fed. Cir. 2002)).

Note that "*limitations appearing in the specification will
not be read into the claims*, and … interpreting what is meant by
a word in a claim is not to be confused with adding an
extraneous limitation appearing in the specification, which is
improper." Intervet Am., v. Kee-Vet Labs., 887 F.2d 1050, 1053,
12 USPQ2d 1474 1476 (fed. Cir. 1989).

"The ordinary and customary meaning of a claim term is the
meaning that the term would have to a person of ordinary skill
in the art in question at the time of the invention, i.e., as of
the effective filing date of the patent application." Phillips
v. AWH Corp,. 415 F.3d 1303, 1313, 75 USPQ2d 1321, 1326 (fed.
Cir. 2005).

"One purpose for examining the specification is to
determine if the patentee has limited the scope of the claims.'…
For example, an inventor may choose to be his own lexicographer
is he defines the specific terms used to describe the invention'
with reasonable clarity, deliberateness, and precision." Such a
definition may appear in the written description, … or in the

prosecution history, …" <u>Teleflex, Inc. v. Ficosa N. Am Corp.</u>,
299 F.3d 1313, 1325, 63 USPQ2d 1374, 1381 (Fed. Cir. 2002).

Prior art pertinent to the disclosed invention is also
cited and Applicants are reminded that they *must consider all
cited art under Rule 111(c) when amending the claims* to conform
with 35 U.S.C. 112.

Conclusion

Any inquiry concerning this communication or earlier
    communications from the examiner should be directed to
    David R. Vincent whose telephone number is (571) 272-3080.
    Any response to this action should be mailed to:
    Commissioner of Patents and Trademarks,
    Washington, D. C. 20231;

Hand delivered to:
    Receptionist,
    Customer Service Window,
    Randolph Building,
    401 Dulany Street,
    Alexandria, Virginia 22313,
    (located on the first floor of the south side of the
    Randolph Building);or

 faxed to:
    (571) 272-3150 (for formal communications intended for
    entry.)

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have any questions on access to Private PAIR system, contact the **Electronic Business Center (EBC) at 866-217-9197** (toll free). If you would like assistance from a USPTO **Customer Service** Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or **571-272-1000.**

/David R Vincent/
Primary Patent Examiner, Art Unit 2129
Typical schedule is M-Fr, 8-4:30.